

Exhibit  
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RECORDED  
10:10 AM

1 SUPERIOR COURT OF NEW JERSEY

2 CHANCERY DIVISION:ESSEX COUNTY

3 DOCKET NO. ESX-C-117-08

4 - - - - - :  
5 DIAGNOSTIC and CLINICAL CARDIOLOGY, P.A., :  
6 Plaintiff, :  
7 vs. :  
8 MARIO A. CRISCITO, M.D., ABC COMPANY, JOHN :  
9 DOES 1-10, and XYZ COMPANIES 1-10, :  
10 Defendants. :  
11 and :  
12 CAPTION CONTINUED ... :  
13  
14  
15  
16 DEPOSITION OF: ANTHONY CASELLA, M.D.  
17 MONDAY, JUNE 22, 2009  
18  
19  
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1 MARIO A. CRISCITO, M.D., :  
2 Third Party Plaintiff :  
3 vs. :  
4 DIAGNOSTIC and CLINICAL CARDIOLOGY, P.A., :  
5 GARY J. ROGAL, M.D., ANTHONY J. CASELLA, :  
6 M.D., KEITH A. HAWTHORNE, M.D., DONALD G. :  
7 RUBENSTEIN, M.D., MARC ROELKE, M.D., SABINO :  
8 R. TORRE, M.D., FADI N. CHAABAN, M.D., :  
9 CONSTANTINOS A. COSTEAS, M.D., KAUSHIK C. :  
10 MODI, M.D., BRUCE J. HAIK, M.D., MARK BROWN :  
11 and JOHN DOES 1-10, :  
12 Third Party Defendants. :  
13 - - - - -

14 Deposition of ANTHONY CASELLA, M.D., taken in :  
15 the above-entitled matter before WINIFRED A. :  
16 HANDEL, a Certified Court Reporter (License No. :  
17 XI00421) of the State of New Jersey, taken at the :  
18 offices of WITMAN STADTMAUER, P.A., 26 Columbia :  
19 Turnpike, Florham Park, New Jersey, on Monday, June :  
20 22, 2009, commencing at 10:10 a.m.

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25

1 A P P E A R A N C E S:

2

3 WITMAN STADTMAUER, P.A.

4 26 Columbia Turnpike

5 Florham Park, New Jersey 07932

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15 BY: STEVEN I. KERN, ESQ.

16 Attorneys for Defendant and Third Party

17 Plaintiff

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I N D E X

3	WITNESS	EXAMINATION BY	PAGE
4	ANTHONY CASELLA, M.D.	MR. KERN	5

**E X H I B I T S**

NUMBER	DESCRIPTION	PAGE
11		
12	(No exhibits marked.)	

5

## EXAMINATION

7 | BY MR. KERN:

8 Q. Dr. Casella, as you know, my name is  
9 Steven Kern. I represent Dr. Criscito in an action  
10 brought by Diagnostic and Clinical Cardiology,  
11 which I'll refer to during this deposition as DCC,  
12 against Dr. Criscito. You have been deposed  
13 before, correct?

14 A. Yes.

15 Q. In fact, I've deposed you before,  
16 correct?

17 A. Yes.

18 Q. Let me repeat a couple of the  
19 directions. I'm going to ask you a series of  
20 questions here today. If at any time you don't  
21 understand my question or believe it to be  
22 ambiguous or confusing, please let me know.  
23 Otherwise, the answer you give will be deemed to be  
24 responsive to the question I ask you. Do you  
25 understand that?

1 of DCC with regard to revenues received outside of  
2 regular business hours -- revenues received by  
3 doctors outside of regular business hours?

4 A. The policy is that if the work -- if  
5 the outside work is done during the workday, the  
6 moneys should come into DCC, and if it's done after  
7 hours, it can go to the doctor who is doing it.

8 The only person who ever disagreed  
9 with that was Criscito, and he was very, very vocal  
10 in saying that all the money outside of business  
11 hours should come into DCC, although we never saw  
12 any of his income from after hours coming in, but  
13 the rest of the group agreed if you did it during  
14 work hours, it came into the business. If you did  
15 it after work hours, it was yours.

16 Q. So, he was outvoted on that?

17 A. Yes.

18 Q. Earlier you talked about the fact  
19 that Dr. Criscito was not good at keeping financial  
20 information.

21 A. In the checkbook -- in the practice.

22 Q. Can you give me an example of that?

23 A. Well, he had no interest -- the  
24 accountants wanted -- they wanted accurate  
25 information on how much money was spent for office

1 supplies, for entertainment, for books, et cetera,  
2 and Criscito just didn't keep those kind of  
3 records. He would give them the American Express  
4 statement, and say -- if it was up to him, he would  
5 have given them the American Express statements and  
6 say work it out. You figure it out. So, I wound  
7 up figuring it out

8 Q. Why didn't he work it out?

9 A. He had no interest in doing it.

10 Q. The same holds true for tracking  
11 profitability and dealing with billings and  
12 collections and those aspects?

13 A. He had no interest in it.

14 Q. No interest in the financial aspect  
15 of the business?

16 A. He had no interest in doing the work.

17 Q. Doing work on the financial aspect of  
18 the business?

19 A. Doing the accounting to track or to  
20 improve it.

21 Q. Let's define accounting. Would you  
22 consider dealing with billing and collection issues  
23 part of the accounting?

24 A. Well, it's the receivables. He had  
25 no interest in managing any of the numbers.

1 Q. I take it because he had no interest  
2 in doing it, he did not do it.

3 A. I don't know exactly who did it  
4 before I took it over, but it was my impression  
5 that the two office girls did it.

6 Q. To your knowledge, was there ever a  
7 time where Dr. Criscito involved himself in  
8 managing the financial affairs of the practice?

9 A. Before I took it over, he probably  
10 managed the affairs with Betty Bulkowski, who did  
11 the paperwork.

12 Q. And after you took it over?

13 A. I took care of it, and I worked with  
14 the accountants.

15 Q. And Dr. Criscito did not involve  
16 himself in it?

17 A. No. The only thing he involved  
18 himself with was he kept his own expense account  
19 records.

20 Q. And how well did he do that?

21 A. Very haphazard. He would forget to  
22 write things down on his expense account, and he  
23 would write out a check and forget to put it on the  
24 sheet, and I would correct it.

25 Q. Did that happen frequently?

1 A. Yes.

2 Q. Were there times where he failed to  
3 request reimbursement of his expense account items?

4 A. No. He would just write out the  
5 check.

6 Q. What do you mean?

7 A. No. If he spent money, and he didn't  
8 write it -- if he spent money, he would write out a  
9 check and reimburse himself, and if it was personal  
10 money, then it would go on his expense account. If  
11 it was considered a business expense, then the  
12 business paid for it, but a lot of the problem with  
13 him was separating a business expense from personal  
14 expense. He tended to over call business expenses  
15 that were really personal.

16 Q. When he wrote checks to reimburse  
17 himself, what back-up did he provide?

18 A. He might not provide any back-up.

19 Q. What would you do if he provided no  
20 back-up?

21 A. I would have to try to figure out  
22 what it was. If I had a question, sometimes I'd  
23 ask him. Other times he might leave a receipt or  
24 if I assumed it was a personal expense, I would  
25 just put it on his expense account.

1 Q. His expense account had an upper  
2 limit, right?  
3 A. Yes.  
4 Q. Did he generally exceed that limit?  
5 A. Yes.  
6 Q. What did you do when he exceeded that  
7 limit?  
8 A. I took it out of his salary.  
9 Q. Do you know from year to year the  
10 amount by which he exceeded his limit?  
11 A. It was variable. Anywhere between  
12 twenty to \$50,000 a year.  
13 Q. And when DCC deducted that from his  
14 salary, how did he respond?  
15 A. It would come out of bonuses.  
16 Q. If you deducted it from bonuses, how  
17 did he respond?  
18 A. He probably wasn't even aware of it  
19 most of the time.  
20 Q. Why not?  
21 A. Because he never got the bonus check.  
22 Q. Never inquired as to how his bonus  
23 check compared to anybody else's?  
24 A. No.  
25 Q. So, he left it to you to decide what

1 to include and what to exclude from his expense  
2 account and to adjust the difference?

3 A. I don't know what he expected.

4 Q. I didn't ask you what he expected.

5 That's what you did.

6 A. That's what I did.

7 Q. And he never questioned it.

8 A. He never questioned me about it, no.

9 Q. Do you know if he questioned anybody  
10 else?

11 A. I don't know.

12 Q. Do you have any reason to believe he  
13 questioned anybody else about it?

14 A. No. He never questioned anybody  
15 else.

16 Q. Did you ever track the outside  
17 revenues received by other physicians for work they  
18 performed outside of regular business hours?

19 A. No.

20 Q. So, if a doctor gave a lecture after  
21 business hours and received an honorarium for that,  
22 that was not reported to DCC?

23 A. No.

24 Q. Yes, it was not reported.

25 A. It was not reported.

1

C E R T I F I C A T E

2

3           I, WINIFRED A. HANDEL, a Certified Court  
4        Reporter of the State of New Jersey, do hereby  
5        certify that prior to the commencement of the  
6        examination, the witness was duly sworn to  
7        testify to the truth, the whole truth and  
8        nothing but the truth.

9

10           I DO FURTHER CERTIFY that the foregoing  
11        is a true and accurate transcript of the  
12        testimony as taken stenographically by and  
13        before me at the time, place and on the date  
14        hereinbefore set forth, to the best of my  
15        ability.

16

17           I DO FURTHER CERTIFY that I am neither a  
18        relative nor employee nor attorney nor counsel  
19        of any of the parties to the action, and that  
20        I am neither a relative nor employee of such  
21        attorney or counsel, and that I am not  
22        financially interested in the action.

23

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29           Winifred A. Handel  
30           WINIFRED A. HANDEL, CCR NO. XI00421